99TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 99-251
Part III

PORT REVENUE ACT OF 1985

SEPTEMBER 23, 1985.—Ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 6]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 6) to provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

At the end of the bill add the following:

TITLE XVII—REVENUE PROVISIONS

SEC. 1701. SHORT TITLE.

This title may be cited as the "Port Revenue Act of 1985".

SEC. 1702. IMPOSTION OF TAX.

(a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by inserting after the chapter heading the following new subchapter:

"SUBCHAPTER A—PORT USE TAX

"Sec. 4461. Imposition of tax.
"Sec. 4462. Definitions and special rules.

"SEC. 4461. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any port use.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any port use shall be 0.04 percent of the value of the cargo involved.

52-561 O

H783-12

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by—

"(1) in the case of cargo entering the United States, the importer,

"(2) in the case of cargo to be exported from the United States, the exporter, or

"(3) in any other case, the shipper.

"SEC. 4462. DEFINITIONS AND SPECIAL RULES.

"(a) PORT USE.—For purposes of this subchapter—

"(1) PORT USE.—The term 'port use' means—

"(A) the loading of commercial cargo on, or

"(B) the unloading of commercial cargo from,

a commercial vessel at a port in the United States.

"(2) PORT.—The term 'port' means any port or channel in the United States with a depth authorized by law of more than 14 feet. The term does not include any port or channel with respect to which no Federal funds have been used for construction, maintenance, or operation.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) COMMERCIAL CARGO.—The term 'commercial cargo' means any cargo other than fuel supplies, ship's stores, sea stores, or legitimate equipment for the vessel.

"(2) COMMERCIAL VESSEL.—The term 'commercial vessel' means any vessel used—

"(A) in the business of transporting cargo by water for compensation or hire, or

"(B) in transporting cargo by water in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

"(3) VALUE.—The term 'value' means—

"(A) in the case of an arms length transaction, the sales price determined under the principles of section 4216(a); or

"(B) in any other case, a constructive sales price determined under regulations prescribed by the Secretary.

To the extent provided in regulations, value may be determined on the basis of standard commercial documentation.

"(c) EXEMPTION FOR HAWAII AND POSSESSIONS.—

"(1) UNITED STATES NOT TO INCLUDE HAWAII OR POSSESSIONS.—For purposes of this subchapter, the term 'United States' shall not include Hawaii or any possession of the United States.

"(2) SHIPMENTS TO HAWAII OR POSSESSIONS.—No tax shall be imposed by this subchapter with respect to any cargo loaded on a vessel for transportation to Hawaii or any possession of the United States for ultimate use or consumption in Hawaii or any possession of the United States.

"(d) TREATMENT OF SAINT LAWRENCE SEAWAY TOLLS.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the Saint Lawrence Seaway tolls treated as paid under paragraph (2).

"(2) ALLOCATION OF TOLLS.—For purposes of this subsection, if—

"(A) any person is liable for the tax imposed by this subchapter with respect to any cargo, and

"(B) such cargo was (or is to be) transported through the Saint Lawrence Seaway,

such person shall be treated as paying the portion of any Saint Lawrence Seaway toll paid by any person which is attributable to such cargo.

"(3) CREDIT MAY NOT EXCEED TAX.—

"(A) IN GENERAL.—The amount of the credit allowable under paragraph (1) to any person for any period shall not exceed the amount of the tax imposed by this subchapter for which such person is liable.

"(B) CARRYOVER OF UNUSED CREDIT.—If the amount allowable as a credit under paragraph (1) to any person for any period exceeds the amount of tax imposed by this subchapter for such period for which such person is liable, such excess shall be treated as a credit allowable under paragraph (1) in the succeeding period.

"(4) SAINT LAWRENCE SEAWAY TOLL.—For purposes of this subsection, the term 'Saint Lawrence Seaway toll' means any toll paid to or on behalf of the Saint Lawrence Seaway Development Corporation.

"(e) EXEMPTION FOR TAX WHERE TRANSPORTATION SUBJECT TO TAX IMPOSED BY SECTION 4042.—No tax shall be imposed under this subchapter with respect to any cargo if any portion of the transportation of such cargo on the vessel concerned has (or will be) transportation subject to the tax imposed by section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

"(f) EXEMPTION FOR UNITED STATES.—No tax shall be imposed under this subchapter on the United States or any agency or instrumentality thereof.

"(g) EXTENSION OF PROVISIONS OF LAW APPLICABLE TO CUSTOMS DUTY.—

"(1) IN GENERAL.—Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs law shall apply in respect of cargo subject to the tax imposed by this subchapter (and in respect to persons liable therefor) in the same manner as if such cargo were cargo imported into the United States. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the value of the cargo.

"(2) JURISDICTION OF COURTS AND AGENCIES.—For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, the tax imposed by this subchapter shall be treated as if such tax were a customs duty.

"(3) ADMINISTRATIVE PROVISIONS APPLICABLE TO TAX LAW NOT TO APPLY.—The tax imposed by this subchapter shall not be treated as a tax for purposes of subtitle F of this title or any other provision of law relating to the administration and enforcement of internal revenue taxes.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter including—

"(1) regulations providing that only 1 tax shall be imposed under this subchapter with respect to the transportation of any cargo on the same vessel, and

"(2) regulations exempting any transaction or class of transactions from the tax imposed by this subchapter where the collection of such tax is not administratively practical."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by inserting the following before the item relating to subchapter D:

"Subchapter A. Port use tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 1703. CREATION OF PORT INFRASTRUCTURE DEVELOPMENT AND IMPROVEMENT TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9504 the following new section:

"SEC. 9505. PORT INFRASTRUCTURE DEVELOPMENT AND IMPROVEMENT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Port Infrastructure Development and Improvement Trust Fund' (hereinafter in this section referred to as the 'Port Trust Fund'), consisting of such amounts as may be—

"(1) appropriated to the Port Trust Fund as provided in this section,

"(2) appropriated to the Port Trust Fund pursuant to section 1703(b) of the Port Revenue Act of 1985, or

"(3) credited to the Port Trust Fund as provided in section 9602(b).

"(b) TRANSFER TO PORT TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Port Trust Fund amounts equivalent to the taxes received in the Treasury under section 4461 (relating to port use tax).

"(c) EXPENDITURES FROM PORT TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Port Trust Fund shall be available, as provided by appropriation Acts, for making expenditures for—

"(A) feasibility studies for, and construction, operation, and maintenance of, projects for ports by the Secretary,

"(B) feasibility studies for, and construction, rehabilitation, operation, and maintenance of, projects for ports for the Saint Lawrence Seaway by the Saint Lawrence Seaway Development Corporation,

"(C) relocations of utilities, structures, and other improvements, necessary for construction, operation, and maintenance of projects referred to in subparagraph (A) or (B),

"(D) making payments to any non-Federal interest which has planned and designed or planned, designed, and

constructed a port in accordance with section 104 of the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1985,

"(E) grants under sections 113 and 114 of such Act, and

"(F) the payment of all expenses of administration incurred by the Department of the Treasury in administering subchapter A of chapter 36 (relating to port use tax).

"(2) DEFINITIONS AND SPECIAL RULE.—For purposes of paragraph (1)—

"(A) CONSTRUCTION DEFINED.—The term 'construction' includes any planning, designing, engineering, and surveying which is necessary to carry out a project for a port and which is performed after authorization of the project.

"(B) PORT DEFINED.—The term 'port' has the meaning given such term by section 115 of the Water Resource Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1985.

"(C) REFERENCE TO SECTIONS.—Any reference to a section of the Water Resources Conservation, Development, and Infrastructure, Improvement and Rehabilitation Act of 1985 shall be treated as a reference to such section as in effect on the date of the enactment of this section."

(b) AUTHORIZATION OF APPROPRIATIONS TO PORT TRUST FUND.—There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Port Infrastructure Development and Improvement Trust Fund for each fiscal year beginning after September 30, 1985, an amount qequal to the excess of—

(1) $1,000,000,000, over

(2) the amount of tax imposed by section 4461 of the Internal Revenue Code of 1954 (relating to port use tax) which the Secretary of the Treasury estimates will be received by such Trust Fund during such year.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9504 the following new item:

"Sec. 9505. Port Infrastructure Development and Improvement Trust Fund."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1986.

SEC. 1704. INLAND WATERWAYS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9506. INLAND WATERWAYS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Inland Waterways Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Inland Waterways Trust Fund amounts determined by the Secretary to be equiv-

alent to the taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Inland Waterways Trust Fund shall be available, as provided by appropriation Acts, for making construction and rehabilitation expenditures for navigation on the inland and costal waterways of the United States described in section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of this section.

"(2) EXCEPTION FOR CERTAIN PROJECTS.—

"(A) CONSTRUCTION PROJECTS.—Not more than ⅓ of the cost of any construction to which section 202(a) of the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1984 applies may be paid from the Inland Waterways Trust Fund.

"(B) CERTAIN RELOCATION EXPENSES.—Not more than ⅙ of the cost of any relocation to which section 202(b) of such Act applies may be paid from the Inland Waterways Trust Fund."

(b) CONFORMING AMENDMENTS.—Sections 203 and 204 of the Inland Waterways Revenue Act of 1978 (relating to Inland Waterways Trust Fund) are hereby repealed.

(c) FUEL USE ON TENNESSEE-TOMBIGBEE WATERWAY SUBJECT TO INLAND WATERWAY TAX.—Section 206 of the Inland Waterways Revenue Act of 1978 is amended by adding at the end thereof the following:

"(27) Tennessee-Tombigbee Waterway: From Pickwick Pool on the Tennessee River at RM 215 to Demopolis, Alabama, on the Tombigbee River at RM 215.4.".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9506. Inland Waterways Trust Fund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1986.

(2) INLAND WATERWAYS TRUST FUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Inland Waterways Trust Fund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Inland Waterways Trust Fund established by section 203 of the Inland Waterways Revenue Act of 1978. Any reference in any law to the Inland Waterways Trust Fund established by such section 203 shall be deemed to include (wherever appropriate) a reference to the Inland Waterways Trust Fund established by this section.

SEC. 1705. COORDINATION WITH OTHER PROVISIONS.

Nothing in any provision of this Act (other than this title) shall be construed as—

(1) imposing any tax (or exempting any person or property from any tax),

(2) establishing any trust fund, or

(3) authorizing amounts to be expended from any trust fund which are not also authorized by this title.

I. SUMMARY

A. Background of Legislation

H.R. 6 (the "Water Resources Conservation, Development and Infrastructure Improvement and Rehabilitation Act of 1985") was ordered reported on June 26, 1985, by the Committee on Public Works and Transportation. The bill was reported on August 1, 1985 (H. Rep. No. 99-251, Part 1), and was referred to the Committee on Interior and Insular Affairs for a period ending not later than September 5, 1985 (later extended to September 16, 1985), to the Committee on Merchant Marine and Fisheries for a period ending not later than September 15, 1985 (later extended to September 23, 1985), and to the Committee on Ways and Means for a period ending not later than September 23, 1985.

H.R. 6 was reported with amendments, by the Committee on Interior and Insular Affairs on September 16, 1985 (H. Rep. 99-251, Part 2). The Committee on Merchant Marine and Fisheries ordered H.R. 6 reported, with amendments, on September 12, 1985.

The Committee on Ways and Means held a public hearing on H.R. 6 on September 5, 1985, and ordered the bill favorably reported with an amendment on September 18, 1985.

B. Committee on Ways and Means Amendment

Port Use Tax and Trust Fund

Port use tax

The committee amendment imposes a new 0.04 percent (4 cents per $100) exercise tax on the value of commerical cargo loaded onto or unloaded from a commercial vessel at a port in the United States.

The port use tax does not apply to cargo when loaded or unloaded at ports in Hawaii or in any possession of the United States; also, the tax does not apply to cargo when loaded on a vessel at any port in the United States for transportation to Hawaii or a U.S. possession for ultimate use or consumption in Hawaii or the possession. If the cargo loaded in Hawaii or a U.S. possession is unloaded at a port in the United States, then the port use tax applies when the cargo is so unloaded.

The tax does not apply to fish or other aquatic animal life caught during a voyage. Also, the tax does not apply to the United States Government or any Federal agency or instrumentality.

The port use tax does not apply to cargo where the transportation of that cargo has been (or will be) subject to the excise tax on diesel or other fuels used on the inland waterways under Code section 4042. A credit is allowed against the port use tax for Saint Lawrence Seaway tolls paid with respect to the cargo being loaded or unloaded, with any unused credit allowed as a carryover to apply against future port use tax liability of the taxpayer.

Administration of the port use tax

Generally, as determined under Treasury regulations, the port use tax is to be administrated by the U.S. Customs Service, with penalties applicable as they are under the customs laws, and not under the tax administrative procedures of Subtitle F of the Internal Revenue Code. For purposes of determining court jurisdiction, the tax is to be treated as if it were a customs duty.

Port Trust Fund

The committee amendment establishes a new Port Infrastructure Development and Improvement Trust Fund in the Treasury. The Trust Fund is to receive amounts equivalent to revenues from the new port use tax. In addition, the committee amendment authorizes appropriations to the Trust Fund of sufficient general revenues for each fiscal year such that the total of port use tax revenues and general revenues for the fiscal year equals $1 billion. The trust Fund statute is placed in the Trust Fund Code of the Internal Revenue Code.

Under the committee amendment, permitted expenditures out of the Trust Fund generally are the same as under the bill as reported by the Committee on Public Works and Transportation, with an added provision to authorize payment out of the Trust fund for Treasury expenses in administering the port use tax.

Effective date

These provisions are effective on January 1, 1986. Thus, the port use tax applies to cargo loaded or unloaded on or after January 1, 1986.

Inland Waterways Trust Fund

Waterways trust fund statute

The committee amendment places the Inland Waterways Trust Fund statute in the Trust Fund Code of the Internal Revenue Code. The amendment specifies that not more than one-third of the cost of any waterway construction project under section 202(a) of the bill and not more than one-sixth of certain relocation costs under section 202(b) of the bill may be paid out of the Trust Fund. This provision is effective on January 1, 1986.

Waterways subject to fuel tax

The committee amendment adds the Tennessee-Tombigbee Waterway to the list of inkand and intracoastal waterways the commercial use of which is subject to the inland waterways fuel tax under Code section 4042.[1] There is no other change in the fuel tax.

This provision is effective on January 1, 1986.

II. EXPLANATION OF COMMITTEE AMENDMENT

The amendments to H.R. 6 by the Committee on Ways and Means provides a revenue title (Title XVIII) for the bill, relating to

[1] The fuel excise tax is currently 8 cents per gallon, and is scheduled to increase to 10 cents per gallon on October 1, 1985.

the imposition of a new port use tax, establishment of a new Port Infrastructure Development and Improvement Trust Fund, and certain changes relating to the Inland Waterways Trust Fund and the waterways subject to the inland waterways fuel tax.

A. Port Use Tax and Trust Fund

1. Imposition of port use tax (sec. 1702(a) of the bill and new secs. 4461–4462 of the Internal Revenue Code)

Present Law

Federal expenditures for harbors and port development historically have been financed from general revenues. No Federal user taxes or fees have been imposed for these specific expenditures.

Reasons for Change

The Committee on Ways and Means agrees that additional Federal investment is needed for port infrastructure development and for maintenance of such capital assets in order to expand, improve, and maintain U.S. ports and harbors for waterborne commerce. Such investments in U.S. ports and harbors will facilitate economic development and make the Nation's water transportation system more efficient.

The Committee on Ways and Means also agrees that a larger portion of Federal expenditures on port and harbor development and maintenance should be borne by the direct beneficiaries of such expenditures. Therefore, the committee amendment imposes a new port use tax. The tax is an *ad valorem* excise tax based on the value of the cargo loaded on or unloaded from ports financed (in part or whole) by the Federal Government. This will make it a uniform excise tax paid by the principal beneficiaries of Federal port development and maintenance costs. The tax rate is set at a level which the committee believes will not cause competitive or economic burdens on the ports or users. The committee emphasizes that it will very carefully review any future proposed increase or other expansion of this tax.

The Committee on Ways and Means believes that the port use tax should not apply to ports in Hawaii or in U.S. possessions to the extent that the cargo is being shipped into or among these islands because of their high dependence on waterborne commerce in their economies. However, cargo shipped through or from these islands to the continental U.S. (including Alaska) is to be subject to the tax when the cargo is unloaded. The Committee on Ways and Means does not wish to provide an incentive for importers to ship cargo through these islands to the mainland (and Alaska) in order to avoid the port use tax.

The Committee on Ways and Means agrees that the tax should not apply to fish and other aquatic animal life caught during a voyage. However, the tax would apply to shipments or processed fish, etc.

The Committee on Ways and Means determined that the port use tax should not be incurred where the Saint Lawrence Seaway toll charge is paid. The committee amendment therefore allows a

credit against the port use tax, with carryovers, for such tolls paid to or on behalf of the Saint Lawrence Seaway Development Corporation. The committee was concerned that cargo shipped through the Seaway would bear a double burden of the toll charges and the port use tax. The committee decided to allow a credit against the port use tax for tolls paid rather than crediting taxes paid against tolls in order to avoid affecting the amount of tolls paid since they are set through bilateral negotiations between the United States and Canada.

In addition, the committee amendment provides that the port use tax is not to be imposed with respect to cargo where the inland waterways fuel tax is paid. Further, the Committee on Ways and Means believes that the port use tax should not apply to cargo shipped by the United States Government.

The committee amendment provides that the effective date for imposition of the port use tax is January 1, 1986, in order to give the Treasury Department lead time to implement the tax.

Explanation of Provisions

Tax rate

The committee amendment imposes a new port use tax of 0.04 percent (4 cents per $100) on the value of commercial cargo loaded onto or unloaded from a commercial vessel at a port in the United States.

Coverage of tax

Port use subject to tax.—The port use tax applies to commercial cargo loaded or unloaded at any port or channel in the United States (see exemption for Hawaii and U.S. possessions, below) with a depth authorized by law of more than 14 feet. The tax does not apply at any port or channel with respect to which no Federal funds have been used for construction, maintenance, or operation.

Definitions.—The term "commercial cargo" means any waterborne cargo other than fuel supplies, ship's stores, sea stores, or legitimate equipment for the vessel (i.e., used on or in the vessel for its operation). A "commercial vessel" is any vessel used (a) in the business of transporting cargo by water for compensation or hire, or (b) in transporting cargo by water in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on voyage).

For purposes of the port use tax, "value" means (a) in the case of an arms length transaction, the sales price as determined under the principles of Code section 4216(a) [2]; or (b) in any other case, a constructive sales price determined under Treasury regulations. To the extent provided in regulations, value may be determined on the basis of standard commercial documentation.

Exemption for Hawaii and U.S. possessions.—The committee amendment provides that the port use tax generally does not apply to cargo loaded or unloaded at ports in Hawaii or in the possessions

[2] Under section 4216(a), the price for purposes of imposing an excise tax includes any charge for coverings and containers and any charge for placing the article in a condition packed ready for shipment.

of the United States (Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands). In addition, the tax does not apply with respect to any cargo loaded at a U.S. port on a vessel for transportation to Hawaii or any possession of the United States for ultimate use or consumption in Hawaii or the U.S. possession. Thus, for example, the tax would apply for waterborne cargo shipped from San Francisco through Hawaii for ultimate use or consumption in a foreign country.

The tax would also apply to waterborne cargo shipped from Hawaii or a possession when the cargo is unloaded at a mainland U.S. port (including Alaska).

Credit for Saint Lawrence Seaway tolls paid.—The committee amendment provides a credit against the port use tax on cargo for any Saint Lawrence tolls paid to or on behalf of the Saint Lawrence Seaway Development Corporation by the person liable for the tax with respect to that cargo. The taxpayer subject to the port use tax is to be allocated that portion of the Saint Lawrence Seaway tolls paid which is attributable to such cargo. That portion of the toll so allocated may be used as a credit against the port use tax.

The credit for Seaway tolls paid is not to exceed the port use tax liability for any taxable period. Any excess amount of such tolls over the port use tax liability for the taxable period may be carried over to be applied against future port use tax liability of the taxpayer. The credit may not be transferred to another taxpayer but it may be used by the same taxpayer against port use tax liability incurred at any U.S. port.

Other exemptions.—The port use tax is not to be imposed with respect to any cargo if any portion of the water transportation of the cargo has been (or will be) subject to the inland waterways fuel tax (under sec. 4042). Further, the port use tax does not apply to the United States Government or any agency or instrumentality thereof.

Payment of port use tax

The port use tax is to be paid by the importer in the case of cargo entering the U.S., by the exporter in the case of cargo to be exported from the U.S., and by the shipper in the case of other waterborne cargo (i.e., cargo loaded or unloaded at U.S. ports involving shipment between U.S. ports).

The Treasury Department is to prescribe regulations so that there is only one payment of the port use tax with respect to the transportation of any cargo on the *same* vessel. For example, waterborne cargo shipped on the same vessel from Seattle to Los Angeles is to be subject to only one payment of the port use tax. Treasury regulations are to prescribe whether the tax in such a case is to be imposed on the loading or on the unloading of the cargo. Waterborne cargo shipped on one vessel between two ports in the United States and then transferred to another vessel at a subsequent U.S. port is subject to another port use tax.

In addition, the committee amendment provides that Treasury regulations are to be prescribed exempting any transaction or class of transactions from the port use tax where the collection of the

tax is not administratively practical (i.e., some *de minimis* level of tax per shipped item or class of items or for a taxable period that may be exempted from payment of the tax and filing of a port use tax return).

Effective Date

The port use tax provisions are effective on January 1, 1986.

2. Customs administration of port use tax (sec. 1702(a) of the bill and new Code sec. 4462(g))

Present Law

There are currently no Federal taxes assessed on port use in the United States. There is, however, a substantial body of law relating to the importation of merchandise and the collection of customs duties. The Tariff Act of 1930, as amended (codified in volume 19 of the U.S. Code), and the Customs Regulations of the United States (volume 19 of the *Code of Federal Regulations*) set out detailed rules and procedures for the classification and appraisal of imported merchandise and for the enforcement of customs laws.

Reasons for Change

Since the U.S. Customs Service currently has a strong presence at ports of entry and is experienced at appraising imported merchandise, the Committee on Ways and Means concluded that it would be more appropriate for the Customs Service, rather than the Internal Revenue Service, to collect and administer the port use tax provided for in this title.

Explanation of Provision

In order to facilitate Customs Service administration and collection of the port use tax, the committee amendment provides that all administrative and enforcement provisions of U.S. customs laws are to apply with regard to the cargo subject to the port use tax under this title of the bill as if the cargo were imported merchandise. The committee amendment further provides that Customs Service penalty provisions are to apply with respect to failures to comply with the port use tax provisions, and that the jurisdiction of courts and agencies is to be determined on the basis as if the tax imposed in this title of the bill were actually a customs duty. Thus, the Court of International Trade is to have primary jurisdiction for actions arising pursuant to this section. Further, since the customs laws and regulations are to apply, the committee amendment specifies that the administrative provisions of subtitle F of the Internal Revenue Code are to be inapplicable to the collection and administration of the port use tax.

3. Port Trust Fund (sec. 1703 of the bill and new sec. 9505 of the Code)

Present Law

There is currently no special fund or trust fund relating to Federal financing of ports and harbors. Such Federal expenditures

have been financed from general fund appropriations. There are several Federal trust funds receiving tax revenues earmarked for specific Federal expenditure purposes.

Currently, there are four trust funds within the Trust Fund Code of the Internal Revenue Code (Chapter 98): Black Lung Disability Trust Fund (sec. 9501); Airport and Airway Trust Fund (sec. 9502); Highway Trust Fund (sec. 9503); and Aquatic Resources Trust Fund (sec. 9504). (The Inland Waterways Trust Fund is also added to the Internal Revenue Code by section 1704 of the bill (see B., below)).

Reasons for Change

The Committee on Ways and Means concluded that revenues from the new port use tax should go into a new trust fund in the Treasury to be available for costs of Federally-financed port projects. The committee amendment modifies the trust fund provisions in the bill as reported by the Committee on Public Works and Transportation in two respects: (1) the committee amendment specifies that general revenues, and not customs duty revenues, are authorized to be appropriated to the trust fund so that when added to the port use tax revenues appropriated to the trust fund would equal $1 billion per fiscal year; and (2) the committee amendment places the Port Trust Fund statute in the Trust Fund Code of the Internal Revenue Code. This latter provision is consistent with trust fund legislation in recent years.

Explanation of Provisions

Establishment of trust fund; transfer of revenues to the trust fund

The committee amendment establishes a new trust fund in the Treasury, the "Port Infrastructure Development and Improvement Trust Fund" (referred to herein as the "Port Trust Fund"). The committee amendment places this trust fund in the Trust Fund Code of the Internal Revenue Code.

The Port Trust Fund is to receive monies from the following three sources:

(1) amounts equivalent to revenues from the new port use tax (new Code sec. 4461) are to be appropriated to the trust fund;

(2) amounts from general revenues equal to $1 billion less amounts received from the port use tax revenues are authorized to be appropriated to the trust fund; and

(3) interest earned on trust fund investments is to be credited to the trust fund.

Management of trust fund

Under the general provisions of the Trust Fund Code (sec. 9601), amounts appropriated to the trust fund are to be transferred at least monthly on the basis of estimates by the Secretary of the Treasury. Adjustments in estimated amounts so transferred are to be made by the Secretary.

The Secretary of the Treasury (under Code sec. 9602) is to manage the trust fund, and is to report to the Congress each year on the financial condition and results of the trust fund operations

during the preceding fiscal year and on its expected condition and operations during the next five fiscal years.

Any trust fund monies not necessary to meet current withdrawals are to be invested in interest-bearing obligations of the United States. Interest earned on such investments is to be credited to the trust fund.

Expenditures from trust fund

Amounts in the Port Trust Fund are to be available, as provided by appropriation Acts, for making expenditures for the following purposes:

(1) feasibility studies for, and construction, operation, and maintenance of, projects for ports by the Secretary of the Army;

(2) feasibility studies for, and construction, rehabilitation, operation, and maintenance of, projects for ports for the Saint Lawrence Seaway by the Saint Lawrence Seaway Development Corporation;

(3) relocations of utilities, structures, and other improvements, necessary for construction, operation, and maintenance of such projects;

(4) making payments to any non-Federal interest (i.e., a State or local governmental entity) which has planned and designed or planned, designed, and constructed a port in accordance with section 104 of this bill;

(5) grants under sections 113 [3] and 114 [4] of this bill; and

(6) the payment of all expenses incurred by the Department of the Treasury in administering the port use tax.

For purposes of the above trust fund expenditures, the term "construction" includes any planning, designing, engineering, and surveying which is necessary to carry out a project for a port and which is performed after authorization of the project. The term "port" has the meaning given such term by section 115 of the bill.[5] (See also discussion of port use tax coverage, A.1., above.) Any reference to a section of the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1985 shall be treated as a reference to such section as in effect on the date of the enactment of the bill.

Effective Date

The trust fund provisions are effective on January 1, 1986.

---

[3] Section 113 of the bill as reported by the Committee on Public Works and Transportation authorizes grants to a non-Federal interest operating a port project for provision of emergency response services in such port.

[4] Section 114 authorizes a grant for construction of a new port office at the Morro Bay Harbor, Calif.

[5] Section 115 defines "port" as (a) any port or channel in the United States with a depth authorized by law of more than 14 feet, including any channel administered by the Saint Lawrence Seaway Development Corporation and any channel connecting the Great Lakes, and (b) any lock or other improvement on such channel; except that such term does not include a entrance channel providing access solely to a harbor with an authorized depth of 14 feet or less and does not include the Bonneville Lock and Dam project on the Columbia River.

B. Inland Waterways Trust Fund

Present Law and Background

In general, Federal expenditures for construction, operation, and maintenance costs of U.S. waterways have been financed from general revenues, rather than from fees or taxes imposed on navigation users. In the Inland Waterways Revenue Act of 1978, however, Congress imposed an inland waterways fuel excise tax, and provided for transfer of these tax revenues to an Inland Waterways Trust Fund. Amounts in the Trust Fund are available, as provided by authorization and appropriation acts, for making construction and rehabilitation expenditures for navigation on the specified waterways the commerical use of which is subject to the fuel excise tax. Amounts transferred to this trust fund have not been appropriated from the trust fund, which had an estimated balance of $192 million at the end of fiscal year 1985.

The fuel tax is imposed on diesel and other liquid fuels used by commercial cargo vessels on 26 designated inland or intracoastal waterways of the United States (Code sec. 4042). Included among the specified waterways are the Mississippi River upstream from Baton Rouge, La., the Mississippi River tributaries, Columbia-Snake Rivers Inland Waterways, part of the Willamette River in Oregon, and the Gulf and Atlantic Intracoastal Waterways. (See Treas. Reg. sec. 48.4042–1(g).) The tax does not apply to fuel used by deep-draft ocean-going vessels, recreational vessels, or noncargo vessels (such as passenger vessels and fishing boats).

The present tax rate of 8 cents per gallon is scheduled to increase to 10 cents per gallon on October 1, 1985.

Reasons for Change

The Committee on Ways and Means agrees that the Tennessee-Tombigbee Wateway should be added to the list of inland wateways the commercial use of which is subject to the inland waterways fuel tax. This waterway was not operational when the existing 26 specified waterways were included in the enactment of the Inland Waterways Revenue Act of 1978 (P.L. 95–502).

In addition, the Committee on Ways and Means determined that the provisions of the Inland Waterways Trust Fund should be part of the Trust Fund Code of the Internal Revenue Code. This action is consistent with the placing of other trust funds in the Internal Revenue Code in recent years. (See also A. 3., above, relating to the new Port Trust Fund.)

Explanation of Provision

Inland waterways subject to fuel tax

The committee amendment adds the Tennessee-Tombigbee Waterway to the list of specified inland and intracoastal waterways the commercial use of which is subject to the inland waterways fuel tax: that portion from Pickwick Pool on the Tennessee River at RM 215 to Demopolis, Ala., on the Tombigbee River at RM 215.4.

Inland Waterways Trust Fund

The committee amendment places the statutory provisions of the existing Inland Waterways Trust Fund in the Trust Fund Code of the Internal Revenue Code (Chapter 98). The committee amendment also specifies that not more than one-third of the costs of seven waterway lock and dam projects listed in section 202(a) of this bill are to be financed from this trust fund and that not more than one-sixth of certain related relocation expenses under section 202(b) of this bill are to be financed from this trust fund.

The Inland Waterways Trust Fund under the committee amendment is to be treated for all purposes of law as a continuation of the exising Inland Waterways Trust Fund as established by section 203 of the Inland Waterways Revenue Act of 1978.

Effective Date

These provisions are effective on January 1, 1986.

C. Coordination with Other Provisions of H.R. 6

The revenue title of H.R. 6 (Title XVII), as added by the Committee on Ways and Means, states that nothing in any other provision of the bill is to be construed as (1) imposing (or exempting from) any tax, (2) establishing any trust fund which are not also authorized by this title. Thus, Title XVII would override any other tax or exemption from tax (or "fees") or trust fund provisions elsewhere in the bill.

III. BUDGET EFFECTS OF COMMITTEE AMENDMENT

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effect on the budget of the committee amendment to H.R. 6 (Title XVII).

The committee amendment to H.R. 6 will increase net fiscal year budget receipts (after income tax offsets) by $88 million in 1986, $140 million in 1987, $154 million in 1988, $167 million in 1989, and $182 million in 1990. The total increase in fiscal year budget receipts is $382 million for 1986–1988, and $731 million for 1986–1990. The following table shows the estimated gross excise tax revenues under the committee amendment, as well as the net budget receipts for fiscal years 1986–1990.

	1986	1987	1988	1989	1990
Excise tax receipts to Port Trust Fund (gross receipts from port use tax)	116	186	204	222	242
Increased Inland Waterways Trust Fund excise tax receipts (adding Tenn.-Tombigbee Waterway as subject to tax)	1	1	1	1	1
Gross increase in excise tax receipts	117	187	205	223	243
Net increase in budget receipts (after income tax offsets)	88	140	154	167	182

The Treasury Department agrees with this statement.

IV. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with clause 2(l)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means on the motion to report H.R. 6, as amended. The bill, as amended, was ordered favorably reported by voice vote.

B. Other Matters

In compliance with clauses 2(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the committee action on H.R. 6, as amended.

Oversight Findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the Committee on Ways and Means advises that it was a result of the committee's review of the revenue and trust fund provisions of H.R. 6 (relating to port development and inland waterways), as considered by the Committee on Public Works and Transportation, Committee on Interior and Insular Affairs, and Committee on Merchant Marine and Fisheries, that the Committee on Ways and Means concluded that it is appropriate to report the bill with an amendment to include a separate revenue title (Title XVII) for the tax and trust fund provisions of the bill.

The Committee on Ways and Means held a public hearing on September 5, 1985, on the revenue-related provisions of H.R. 6, and approved the bill with an amendment (new Title XVII) on September 18, 1985. (See I.A., Background on Legislation, above.)

Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the Committee on Ways and Means states that the changes made by the bill as amended by the committee do not involve any new or increased tax expenditures.

New Budget Authority

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the Committee on Ways and Means states that the committee amendment to H.R. 6 involves no new budget authority.

Congressional Budget Office Estimates

With respect to subdivision (C) of clause 2(l)(3), the Committee on Ways and Means advises that the Director of the Congressional Budget Office has examined the committee's revenue estimates of this title of the bill (see Part III of this report) and agrees with the estimates. The Director submitted the following statement.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 23, 1985.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: CBO has examined an amendment to H.R. 6, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitiation Act of 1985, as ordered reported by the Committee on Ways and Means on September 18, 1985.

Title XVII of the amendment would amend chapter 36 of the Internal Revenue Code of 1954 relating to certain other excise taxes by imposing a new ad valorem tax of .04 percent on the value of commercial cargo loaded or unloaded from a vessel at a United States port. The amendment would exempt from the tax shipments to Hawaii and possessions of the United States. In addition, fuel supplies, ships' stores, equipment necessary to the operation of the vessel, and fish or other aquatic animal life caught in voyage would not be considered commercial cargo and therefore would not be subject to the tax. The amendment would further exempt from the tax cargo in any port or channel that does not receive federal funds for construction, maintenance, or operation of that port. Also, no tax shall be imposed on cargo if any portin of its transportation has or will be subject to the Inland Waterways Tax on fuel. The amendment would also allow a credit against the tax liability for tolls paid to the Saint Lawrence Seaway. Any unused credit can be carried over to the succeeding year. Cargo purchased or sold by the United States would also be exempt from the tax. The money collected from the ad valorem tax would be deposited into the newly established Port Infrasturcture Development and Improvement Trust Fund.

The amendment would also amend the Internal Revenue Code of 1954 by including the Inland Waterways Trust Fund as section 9506, and by adding the Tennessee-Tombigbee Waterway to the tax base of the Inland Waterways Tax on fuel. These amendments to H.R. 6 would become effective January 1, 1986.

CBO has reviewed and concurs with the estimates of the revenue effects prepared by the Joint Committee on Taxation, shown in the table below.

Estimated revenue effects of the amendment to H.R. 6

[By fiscal years, in millions of dollars]

1986	88
1987	140
1988	154
1989	167
1990	182

If you have any questions, please feel free to call me or you may have your staff contact Neil Fisher of the Tax Analysis Division.

With best wishes,

Sincerely,

ROSEMARY MARCUTT
(For Rudolph G. Penner, Director.)

Oversight by Committee on Government Operations

With respect to subdivision (D) of a clause 2(l)(3), the Committee on Ways and Means advises that no oversight findings or recommendations have been submitted by the Committee on Government Operations regarding the subject matter of the bill.

Inflationary Impact

In compliance with clause 2(l)(4), the Committee on Ways and Means states that enactment of the bill, H.R. 6, as amended, is not expected to have any significant impact on prices and costs in the operation of the national economy. The new port use tax of 0.04 percent (4 cents per $100) of the value of cargo loaded or unloaded at U.S. ports will have only a minimal impact on prices and costs for U.S. port users. However, this relatively low level tax wil be offset in some degree by providing needed Federal monies to help pay for new, expanded and more efficient U.S. ports. The increase in net budget receipts of $731 million over the 5-year fiscal year period, 1986–1990, will reduce the potential Federal budget deficit by a like amount by providing a new source of user-related revenues rather than relying completely on general fund appropriations to finance U.S. port projects.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

CHAPTER 36—CERTAIN OTHER EXCISE TAXES

Subchapter A. Port use tax.

SUBCHAPTER D. Tax on use of certain vehicles.
SUBCHAPTER F. Tax on removal of hard mineral resources from deep seabed.

Subchapter A. Port use tax.

Sec. 4461. Imposition of tax.
Sec. 4462. Definitions and special rules.

SEC. 4461. IMPOSITION OF TAX.

(a) GENERAL RULE..—There is hereby imposed a tax on any port use.

(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any port use shall be 0.04 percent of the value of the cargo involved.

(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by—

(1) in the case of cargo entering the United States, the importer,

(2) in the case of cargo to be exported from the United States, the exporter, or

(3) in any other case, the shipper.

SEC. 4462. DEFINITIONS AND SPECIAL RULES.

(a) PORT USE.—For purposes of this subchapter—

(1) PORT USE.—The term "port use" means—

(A) the loading of commercial cargo on, or

(B) the unloading of commerical cargo from,

a commercial vessel at a port in the United States.

(2) PORT.—The term "port" means any port or channel in the United States with a depth authorized by law or more than 14 feet. The term does not include any port or channel with respect to which no Federal funds have been used for construction, maintenance, or operation.

(b) OTHER DEFINITIONS.—For purposes of this subchapter—

(1) COMMERCIAL CARGO.—The term "commercial cargo" means andy cargo other than fuel supplies, ship's stores, sea stores, or legitimate equipment for the vessel.

(2) COMMERCIAL VESSEL.—The term "commercial vessel" means any vessel used—

(A) in the business of transporting cargo by water for compensation or hire, or

(B) in transporting cargo by water in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage).

(3) VALUE.—The term "value" means—

(A) in the case of an arms length transaction, the sales price determined under the principles of section 4216(a); or

(B) in any other case, a constructive sales price determined under regulations prescribed by the Secretary.

To the extent provided in regulations, value may be determined on the basis of standard commercial documentation.

(c) EXEMPTION FOR HAWAII AND POSSESSIONS.—

(1) UNITED STATES NOT TO INCLUDE HAWAII OR POSSESSIONS.—For purposes of this subchapter, the term "United States" shall not include Hawaii or any possession of the United States.

(2) SHIPMENTS TO HAWAII OR POSSESSIONS.—No tax shall be imposed by this subchapter with respect to any cargo loaded on a vessel for transportation to Hawaii or any possession of the United States for ultimate use or consumption in Hawaii or any possession of the United States.

(d) TREATMENT OF SAINT LAWRENCE SEAWAY TOLLS.—

(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this subchapter an amount equal to the Saint Lawrence Seaway tolls treated as paid under paragraph (2).

(2) ALLOCATION OF TOLLS.—For purposes of this subsection, if—

(A) any person is liable for the tax imposed by this subchapter with respect to any cargo, and

(B) such cargo was (or is to be) transported through the Saint Lawrence Seaway,

such person shall be treated as paying the portion of any Saint Lawrence Seaway toll paid by any person which is attributable to such cargo.

(3) CREDIT MAY NOT EXCEED TAX.—

(A) IN GENERAL.—The amount of the credit allowable under paragraph (1) to any person for any period shall not exceed the amount of the tax imposed by this subchapter for which such person is liable.

(B) CARRYOVER OF UNUSED CREDIT.—If the amount allowable as a credit under paragraph (1) to any person for any period exceeds the amount of tax imposed by this subchapter for such period for which such person is liable, such excess shall be treated as a credit allowable under paragraph (1) in the succeeding period.

(4) SAINT LAWRENCE SEAWAY TOLL.—For purposes of this subsection, the term "Saint Lawrence Seaway toll" means any toll paid to or on behalf of the Saint Lawrence Seaway Development Corporation.

(e) EXEMPTION FOR TAX WHERE TRANSPORTATION SUBJECT TO TAX IMPOSED BY SECTION 4042.—No tax shall be imposed under this subchapter with respect to any cargo if any portion of the transportation of such cargo on the vessel concerned has (or will be) transportation subject to the tax imposed by section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

(f) EXEMPTION FOR UNITED STATES.—No tax shall be imposed under this subchapter on the United States or any agency or instrumentality thereof.

(g) EXTENSION OF PROVISIONS OF LAW APPLICABLE TO CUSTOMS DUTY.—

(1) IN GENERAL.—Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs law shall apply in respect of cargo subject to the tax imposed by this subchapter (and in respect of persons liable therefor) in the same manner as if such cargo were cargo imported into the United States. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the value of the cargo.

(2) JURISDICTION OF COURTS AND AGENCIES.—For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, the tax imposed by this subchapter shall be treated as if such tax were a customs duty.

(3) ADMINISTRATIVE PROVISIONS APPLICABLE TO TAX LAW NOT TO APPLY.—The tax imposed by this subchapter shall not be treated as a tax for purposes of subtitle F of this title or any other provision of law relating to the administration and enforcement of internal revenue taxes.

(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter including—

(1) regulations providing that only 1 tax shall be imposed under this subchapter with respect to the transportation of any cargo on the same vessel, and

(2) regulations exempting any transaction or class of transactions from the tax imposed by this subchapter where the collection of such tax is not administratively practical.

Subtitle I—Trust Fund Code

* * * * * * *

CHAPTER 98—TRUST FUND CODE

* * * * * * *

Subchapter A—Establishment of Trust Funds

Sec. 9501. Black Lung Disability Trust Fund.
Sec. 9502. Airport and Airway Trust Fund.
Sec. 9503. Highway Trust Fund.
Sec. 9504. Aquatic Resources Trust Fund.
Sec. 9505. Port Infrastructure Development and Improvement Trust Fund.
Sec. 9506. Inland Waterways Trust Fund.

* * * * * * *

SEC. 9505. PORT INFRASTRUCTURE DEVELOPMENT AND IMPROVEMENT TRUST FUND.

(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Port Infrastructure Development and Improvement Trust Fund" (hereinafter in this section referred to as the "Port Trust Fund"), consisting of such amounts as may be—

(1) appropriated to the Port Trust Fund as provided in this section,

(2) appropriated to the Port Trust Fund pursuant to section 1703(b) of the Port Revenue Act of 1985, or

(3) credited to the Port Trust Fund as provided in section 9602(b).

(b) TRANSFER TO PORT TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Port Trust Fund amounts equivalent to the taxes received in the Treasury under section 4461 (relating to port use tax).

(c) EXPENDITURES FROM PORT TRUST FUND.—

(1) IN GENERAL.—Amounts in the Port Trust Fund shall be available, as provided by appropriation Acts, for making expenditures for—

(A) feasibility studies for, and construction, operation, and maintenance of, projects for ports by the Secretary,

(B) feasibility studies for, and construction, rehabilitation, operation, and maintenance of, projects for ports for the Saint Lawrence Seaway by the Saint Lawrence Seaway Development Corporation,

(C) relocations of utilities, structures, and other improvements, necessary for construction, operation, and maintenance of projects referred to in subparagraph (A) or (B),

(D) making payments to any non-Federal interest which has planned and designed or planned, designed, and constructed a port in accordance with section 104 of the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1985,

(E) grants under sections 113 and 114 of such Act, and

(F) the payment of all expenses of administration incurred by the Department of the Treasury in administering subchapter A of chapter 36 (relating to port use tax).

(2) DEFINITIONS AND SPECIAL RULE.—For purposes of paragraph (1)—

(A) CONSTRUCTION DEFINED.—The term "construction" includes any planning, designing, engineering, and surveying which is necessary to carry out a project for a port and which is performed after authorization of the project.

(B) PORT DEFINED.—The term "port" has the meaning given such term by section 115 of the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1985.

(C) REFERENCE TO SECTIONS.—Any reference to a section of the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1985 shall be treated as a reference to such section as in effect on the date of the enactment of this section.

SEC. 9506. INLAND WATERWAYS TRUST FUND.

(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Inland Waterways Trust Fund," consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropirated to the Inland Waterways Trust Fund amounts determined by the Secretary to be equivalent to the taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

(c) EXPENDITURES FROM TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Inland Waterways Trust Fund shall be available, as provided by appropriation Acts, for making construction and rehabilitation expenditures for navigation on the inland and coastal waterways of the United States described in section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of this section.

(2) EXCEPTION FOR CERTAIN PROJECTS.—

(A) CONSTRUCTION PROJECTS.—Not more than ⅓ of the cost of any construction to which section 202(a) of the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1985 applies may be paid from the Inland Waterways Trust Fund.

(B) CERTAIN RELOCATION EXPENSES.—Not more than 1/6 of the cost of any relocation to which section 202(b) of such Act applies may be paid from the Inland Waterways Trust Fund.

* * * * * * *

INLAND WATERWAYS REVENUE ACT OF 1978

* * * * * * *

[SEC. 203. ESTABLISHMENT OF INLAND WATERWAYS TRUST FUND.

[(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Inland Waterways Trust Fund" (hereinafter in this title referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

[(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

[(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") to be equivalent to the amounts of the taxes received in the Treasury under section 4042 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways).

[(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(c) MANAGEMENT OF TRUST FUND.—

[(1) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

[(2) INVESTMENT.—

[(A) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

[(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

[(C) INTEREST; PROCEEDS FROM SALES AND REDEMPTIONS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

[SEC. 204. TRUST FUND AVAILABLE FOR EXPENDITURES FOR NAVIGATION CONSTRUCTION AND REHABILITATION PROJECTS ON INLAND WATERWAYS.

[(a) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making construction and rehabilitation expenditures for navigation on the inland and intracoastal waterways of the United States described in section 206 of this Act. No amount may be appropriated out of the Trust Fund unless the law authorizing the expenditure for which the amount is appropriated explicitly provides that the appropriation is to be made out of the Trust Fund.

[(b) EXPENDITURES MUST BE OTHERWISE AUTHORIZED BY LAW.—Nothing in this section shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.]

SEC. 206. INLAND AND INTRACOASTAL WATERWAYS OF THE UNITED STATES.

For purposes of section 4024 of the Internal Revenue Code of 1954 (relating to tax on fuel used in commercial transportation on inland waterways) and for purposes of secton 204 of this Act, the following inland and intracoastal waterways of the United States are described in this section:

(1) Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

* * * * * * *

(27) Tennessee-Tombigbee Waterway: From Pickwick Pool on the Tennessee River at RM 215 to Demopolis, Alabama, on the Tombigbee River at RM 215.4.

○